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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,517	09/16/2005	Dieter Reichel	CBZ-1274	2514
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EXAMINER				
OLSON, LARS A				
ART UNIT		PAPER NUMBER		
3617				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/519,517

Applicant(s)

REICHEL, DIETER

Examiner

Lars A. Olson

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27, 30-40, 43-48 and 52-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27, 30-40 and 43-45 is/are allowed.
- 6) ☒ Claim(s) 46-48 and 52-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. An amendment was received from the applicant on December 14, 2007.
2. Claims 1-26, 28, 29, 41, 42 and 49-51 have been canceled.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 46-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Allan (GB 1,104,746).

Allan discloses the same track system for a rail vehicle as claimed, as shown in Figure 3, that is comprised of a rail vehicle, defined as Part #1, a tunnel, defined as Part #2, with guide rails, defined as Parts #8 and 9, and a passage through said vehicle, defined as Part #20, that is configured to direct air back into said tunnel behind said vehicle. A turbine, defined as Part #19, is disposed within said vehicle, as shown in Figure 3, to assist in conduction of air that is displaced by said vehicle.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allan in view of Edwards.

Allan, as set forth above, discloses all of the features claimed except for the use of a channel in communication with said tunnel that is configured to conduct a portion of the air displaced by said vehicle.

Edwards discloses a track system for a rail vehicle that is comprised of a tunnel, defined as Part #1, with guide rails, defined as Part #17, and at least one channel, defined as Part #23, that is located outside of said tunnel and connected to said tunnel by a plurality of openings, defined as Part #25, that are closeable, where air that is displaced by a vehicle, defined as Part #3, is directed through said openings and into said channel, as shown in Figure 2. A pump or turbine, defined as Part #33, is also provided to assist with the conduction of air from said tunnel through said channel, as shown in Figure 2.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a channel for conducting air from a tunnel around a vehicle, as taught by Edwards, in combination with the track system as disclosed by Allan for the purpose of providing a track system for a rail vehicle with a means for increasing vehicle speed by directing air from in front of said vehicle to the rear of said vehicle, where the resulting differential air pressure assists in moving said vehicle forward.

Allowable Subject Matter

7. Claims 27, 30-40 and 43-45 are allowed.

Response to Arguments

8. Applicant's arguments filed on December 14, 2007 regarding claims 46-48 and 52-55 have been fully considered but they are not persuasive.
9. The applicant argues that Allan (GB 1,104,746) does not show or suggest all of the features of the track system for a rail vehicle as claimed by the applicant.
10. In response to the applicant's argument, Allan, as previously cited, discloses a track system that includes a vehicle having a turbine disposed in said vehicle, as shown in Figure 3, to assist in the conduction of air displaced by said vehicle within a tunnel. Since said turbine is claimed by the applicant to be disposed either in said vehicle or said tunnel, it is only necessary for the examiner to demonstrate that the disposition of said turbine in one or the other is known in the prior art. Thus, Allan discloses all of the features of the track system for a rail vehicle as claimed by the applicant. Therefore, for the reasons given above, the rejection of claims 46-48 and 52-55 is deemed proper and is not withdrawn.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3617

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (571) 272-6685.

lo

February 21, 2008

/Lars A Olson/

Primary Examiner, Art Unit 3617